

01  
02  
03  
04  
05  
06  
07                   UNITED STATES DISTRICT COURT  
08                   WESTERN DISTRICT OF WASHINGTON  
09                   AT SEATTLE

10         NORTHWEST ADMINISTRATORS, INC., )                   CASE NO. C11-1367-MAT  
11                 Plaintiff,                           )  
12                 v.                                      )  
13         ACE PAVING CO., INC.,                      )  
14                 Defendant.                           )  
15    )

---

16         Plaintiff Northwest Administrators, Inc. moves the Court for summary judgment  
17 against defendant Ace Paving Co., Inc. (Dkt. 11.) This matter was brought pursuant to the  
18 Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq. (ERISA), and Section  
19 301 of the Labor Management Relations Act, 29 U.S.C. § 185.

20         Plaintiff is the authorized administrative agent and assignee of the Western Conference  
21 of Teamsters Pension Trust (WCTPT), Teamsters Construction Industry Welfare Trust  
22 (TCWT), and the Washington Teamsters Welfare Trust (WTWT), which took over as a  
successor trust for the TCWT in January 2010. Defendant employs members of a bargaining

01 unit represented by the International Brotherhood of Teamsters Local 589 (Local 589) and is  
02 bound by a collective bargaining agreement with the Associated General Contractors of  
03 America, Inc., and several Teamsters locals, including Local 589, as well as the TCWT Trust  
04 Agreement, which has been replaced by the WTWT Trust Agreement. (Dkt. 12, ¶¶ 14-16,  
05 Exs. A-E.) Through those agreements, defendant is required to report and pay monthly  
06 contributions for eligible employees. (*Id.*) The trust agreements contain terms as to damages  
07 owed as a result of any delinquent contributions, as well as attorney's fees and costs. (*Id.*, ¶¶  
08 20-27, Exs. A-E.)

09 Plaintiff now seeks delinquent contributions and associated damages, attorney's fees,  
10 and costs for July through October 2011. It attaches remittance reports from defendant for the  
11 months in question and a spreadsheet showing the amounts owed, due dates, and calculations of  
12 liquidated damages and interest. (*Id.*, Exs. F-H.) Plaintiff notes that a final attorney's fees and  
13 costs amount will be submitted to the Court if the motion for summary judgment is granted.

14 In its answer to plaintiff's complaint, defendant acknowledged the existence of the  
15 collective bargaining agreements, but otherwise asserted that its obligations under the  
16 agreements were mixed questions of law and fact, and disputed the legal effect of contract  
17 language authorizing an award of liquidated damages. (Dkt. 7.) Defendant did not oppose  
18 plaintiff's motion for summary judgment. The Court deems defendant's failure to oppose to  
19 be an admission that the motion has merit. *See* Local Civil Rule 7(b)(2). The Court also, for  
20 the reasons described below, finds plaintiff entitled to summary judgment.

21 Summary judgment is appropriate when a "movant shows that there is no genuine  
22 dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed.

01 R. Civ. P. 56(a). The moving party is entitled to judgment as a matter of law when the  
02 nonmoving party fails to make a sufficient showing on an essential element of his case with  
03 respect to which he has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23  
04 (1986). The Court must draw all reasonable inferences in favor of the nonmoving party.  
05 *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

06 ERISA obligates participating employers to make contributions to a multi-employer  
07 trust fund in accordance with the contract and trust agreement. ERISA Section 515, 29 U.S.C.  
08 § 1145. ERISA provides specific mandatory remedies for delinquent contributions, including,  
09 in addition to the unpaid contributions, liquidated damages, interest, attorney's fees, and costs.  
10 § 1132(g)(2). As noted, defendant also signed trust agreements containing terms as to  
11 damages owed as a result of delinquent contributions.

12 In this case, using defendant's remittance reports, plaintiff calculates total trust fund  
13 contributions owed in the amount of \$137,013.94 total for the period of July through October  
14 2011. (Dkt. 11 at 8 and Dkt. 12, Exs. G & H.) Plaintiff further calculates that defendant is  
15 obligated to pay liquidated damages in the amount of \$27,402.79 and interest in the amount of  
16 \$1,127.11. (*Id.*)

17 The Court finds no issues of fact regarding either the enforceability of the collective  
18 bargaining and trust agreements at issue in this case or plaintiff's entitlement to the total amount  
19 of delinquent trust fund contributions, liquidated damages, and interest sought, as well as to  
20 plaintiff's entitlement to attorney's fees and costs. Accordingly, plaintiff's motion for  
21 summary judgment is hereby GRANTED and plaintiff awarded the delinquent contributions,  
22 liquidated damages, and interest requested, and attorney's fees and costs in an amount to be

01 determined. However, because plaintiff calculated the amounts described above as of  
02 December 15, 2011, a revised accounting may now be in order. Plaintiff must also submit a  
03 total amount of attorney's fees and costs requested. Plaintiff shall submit such information  
04 within **ten (10) days** of the date of this Order.

05 DATED this 9th day of February, 2012.

06  
07   
08 Mary Alice Theiler  
United States Magistrate Judge  
09  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22